

# **EXHIBIT E**

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

|  |   |                      |
|--|---|----------------------|
| <b>ERIK JOHNSON and others similarly</b> | ) |                      |
| <b>situated,</b>                         | ) |                      |
|  | ) |                      |
| <b>Plaintiffs,</b>                       | ) |                      |
|  | ) | <b>No. 3:09-0130</b> |
| <b>v.</b>                                | ) | <b>JUDGE ECHOLS</b>  |
|  | ) |                      |
| <b>ECT CONTRACTING, LLC,</b>             | ) |                      |
|  | ) |                      |
| <b>Defendant.</b>                        | ) |                      |
|  | ) |                      |
| <b>BRETT BAXTER and LARRY ALSUP,</b>     | ) |                      |
|  | ) |                      |
| <b>Intervenors.</b>                      | ) |                      |

**ORDER**

For the reasons set forth in the Memorandum issued contemporaneously herewith, the Court rules as follows:

(1) Plaintiffs' Motion For Approval Of 29 U.S.C. § 216(b) Notice And Consent Forms And To Order Disclosure Of Current And Former Employees (Docket Entry No. 35) is hereby GRANTED;

(2) this case may proceed as a collective action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*;

(3) the Notice of Right to Opt-In to Lawsuit ("notice"), which appears at Docket Entry No. 36-3, is hereby APPROVED, except that Plaintiffs must change the last paragraph of the notice to reflect that the notice and its contents were approved by the undersigned and not District Judge John T. Nixon;

(4) the Consent to Become Party Plaintiff (“consent form”), which appears at Docket Entry No. 36-4, is hereby APPROVED;

(5) on or before thirty (30) days after the date of entry of this Order, Defendant must provide Plaintiffs’ counsel with the names, dates of employment, last-known addresses, and last known telephone numbers of all current and former employees who, during the three years preceding the filing of this lawsuit, were classified as “independent contractors,” and such information must be provided on a compact disc or in other mutually agreeable form;

(6) on or before thirty (30) days after the date of entry of this Order, Defendant must post the notice and consent form, referenced in paragraphs (3) & (4) above, at or near the time clock at Defendant’s location(s) and enclose a copy of the notice and consent form with each alleged independent contractor’s next scheduled paycheck;

(7) on or before sixty (60) days from the date of entry of this Order, Plaintiffs’ counsel must send by regular first class United States mail copies of the notice and consent form to all current and former employees of Defendant who were classified as “independent contractors” and who worked at Defendant’s location(s) during the three years preceding the filing of this lawsuit. The date on the notice must be the date that Plaintiffs’ counsel mails the notice and consent form;

(8) as indicated in the notice, a potential opt-in plaintiff who wishes to join this lawsuit must complete, sign and mail the consent form so that it is postmarked no later than ninety (90) days after the date the notice and consent form are mailed by Plaintiffs’ counsel to the potential opt-in plaintiffs;

(9) upon receipt of a consent form from an opt-in plaintiff, Plaintiffs’ counsel or staff must stamp the consent form with the date of receipt of the consent form. The consent form will be deemed filed on its postmarked date, which Plaintiffs’ counsel or staff must also note on the consent form. With regard to these duties, Plaintiffs’ counsel and staff will be acting as officers of the court;

(10) at the conclusion of the opt-in period, Plaintiffs' counsel must file with the Clerk in a single filing all of the consent forms received from opt-in plaintiffs;

(11) the applicable statute of limitations for the putative class is hereby tolled as of the date of entry of this Order; and

(12) this case is hereby returned to the Magistrate Judge for further pretrial case management in accordance with Local Rule 16.01.

It is so ORDERED.

A handwritten signature in black ink, appearing to read "Robert L. Echols", is written over a horizontal line.

ROBERT L. ECHOLS  
UNITED STATES DISTRICT JUDGE